IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 8057
Dahmen *et al.*	Art Unit: 1612
Appl. No.: 10/565,883	Examiner: HOLLOMAN, Nannette
§ 371(c) Date: May 24, 2006	Atty. Docket: 2400.0180000/RWE/L-Z
For: **Fungicide Ternary Active Ingredient Combinations**	

Declaration of Peter Dahmen Under 37 C.F.R. §1.132

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

I, Peter Dahmen, of Altebrücker Str. 61, 41470 Neuss, Germany, a citizen of Germany, hereby declare:

1. that I am one of the inventors of application No. 10/565,883, entitled "Fungicide Ternary Active Ingredient Combinations;"

2. that I received the degree of Dr. agr. from the University of Bonn, Germany;

3. that since 1991, I have been working for Bayer AG, and now in the department of Biology Fungicides, Bayer CropScience AG, the assignee of the above-captioned application;

4. that I have specialized in the field of fungicide research; and

5. that the following tests have been carried out under my supervision and control.

Example 1

***Leptosphaeria nodorum* test (wheat) / preventive**

Solvent: 49 parts by weight of N,N-dimethylacetamide

Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound or active compound combination is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for preventive activity, young plants are sprayed with the preparation of active compound or active compound combination at the stated rate of application. After the spray coating has dried, the plants are sprayed with a spore suspension of *Leptosphaeria nodorum*. The plants remain for 48 hours in an incubation cabinet at approximately 20°C and a relative atmospheric humidity of approximately 100%. The plants are placed in a greenhouse at a temperature of approximately 22°C and a relative atmospheric humidity of approximately 80%.

The test is evaluated 8 days after the inoculation. An efficacy of 0% corresponds to that of the control, while an efficacy of 100 % means that no disease is observed.

Table 1: *Leptosphaeria nodorum* test (wheat) / preventive

Active compounds	Application rate of active compound in g/ha	Efficacy in %	
		found*	calc.**
(I) Fluoxastrobin	37.5	50	
(II) Prothioconazole	37.5	13	
(III) Tebuconazole	5.0	0	
(I) + (II) 1:1	37.5 + 37.5	94	57
(I) + (III) 7.5:1	37.5 + 5.0	63	50
(II) + (III) 7.5:1	37.5 + 5.0	50	13
(I) + (II) + (III) 7.5:7.5:1	37.5 + 37.5 + 5.0	100	57

* found =activity found

** calc. = activity calculated using Colby's formula

Example 2

***Fusarium graminearum*-test (barley) / preventive**

Solvent: 49 parts by weight of N,N-dimethylacetamide

Emulsifier: 1 part by weight of alkylaryl polyglycol ether

To produce a suitable preparation of active compound, 1 part by weight of active compound or active compound combination is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

To test for preventive activity, young plants are sprayed with the preparation of active compound or active compound combination at the stated rate of application. After the spray coating has dried, the plants are sprayed with a spore suspension of *Fusarium*

graminearum. The plants are placed in a greenhouse under translucent incubation cloches at a temperature of approximately 22°C and a relative atmospheric humidity of approximately 100%.

The test is evaluated 5 days after the inoculation. An efficacy of 0% corresponds to that of the control, while an efficacy of 100 % means that no disease is observed.

Table 2: *Fusarium graminearum*-test (barley) / preventive

Active compounds	Application rate of active compound in g/ha	Efficacy in %	
		found*	calc.**
(I) Fluoxastrobin	75.0	17	
(II) Prothioconazole	75.0	50	
(III) Tebuconazole	10.0	50	
(I) + (II) 1:1	75.0 + 75.0	67	59
(I) + (III) 7.5:1	75.0 + 10.0	67	59
(II) + (III) 7.5:1	75.0 + 10.0	83	75
(I) + (II) + (III) 7.5:7.5:1	75.0 + 75.0 + 10.0	92	79

* found = activity found

** calc. = activity calculated using Colby's formula

The undersigned declarant declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Monheim, Germany,

2009-05-27 Pet Dah

Date Dr. Peter Dahmen